

ERIC W. SWANIS, ESQ.  
Nevada Bar No. 6840  
**GREENBERG TRAUIG, LLP**  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89135  
Telephone: (702) 792-3773  
Facsimile: (702) 792-9002  
Email: [swanise@gtlaw.com](mailto:swanise@gtlaw.com)

CHRISTOPHER J. NEUMANN, ESQ.\*  
CASEY SHPALL, ESQ.\*  
GREGORY R. TAN, ESQ.\*  
*\*Admitted Pro Hac Vice*  
**GREENBERG TRAUIG, LLP**  
1144 15<sup>th</sup> Street, Suite 3300  
Denver, Colorado 80202  
Telephone: (303) 572-6500  
Email: [neumannc@gtlaw.com](mailto:neumannc@gtlaw.com)  
[shpallc@gtlaw.com](mailto:shpallc@gtlaw.com)  
[tangr@gtlaw.com](mailto:tangr@gtlaw.com)

*Counsel for Defendants*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

CAESAR L. TORRES,

Plaintiff,

v.

C. R. BARD, INC.; BARD PERIPHERAL  
VASCULAR, INCORPORATED,

Defendants.

CASE NO. 2:19-cv-01582-KJD-BNW

**STIPULATION AND [PROPOSED]  
ORDER TO STAY CASE**

**(FIRST REQUEST)**

Plaintiff Caesar Torres (“Plaintiff”) and Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (“Defendants” and collectively with Plaintiff, the “Parties”), pursuant to Fed. R. Civ. P. 26(c) and (d) and LR IA 6-2, respectfully request that this Court temporarily stay discovery and all pretrial deadlines until **June 30, 2021** while the Parties pursue settlement. In support thereof, the Parties state as follows:

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1           1.       This case was part of the Multi-District Litigation proceeding *In re: Bard IVC Filters*  
2 *Product Liability Litigation*, pending before Senior Judge David Campbell of the District of Arizona.

3           2.       Plaintiff alleges experiencing complications following the implantation of a Bard Inferior  
4 Vena Cava (“IVC”) filter, a prescription medical device. He has asserted three strict products liability  
5 counts (manufacturing defect, information defect (failure to warn) and design defect), six negligence  
6 counts (design, manufacture, failure to recall/retrofit, failure to warn, negligent misrepresentation and  
7 negligence per se), two breach of warranty counts (express and implied), two counts sounding in fraud  
8 (fraudulent misrepresentation and fraudulent concealment), an unfair and deceptive trade practices count,  
9 and a claim for punitive damages.

10          3.       Defendants deny the Plaintiff’s allegations.

11          4.       After four years, the completion of general issue discovery, and three bellwether trials,  
12 Judge Campbell ordered that certain cases, which have not settled or are not close to settling, be  
13 transferred or remanded to the appropriate jurisdictions around the country for case-specific discovery  
14 and trial. As a part of that process, he established a “track” system, wherein certain cases were placed  
15 on tracks either to finalize settlement paperwork, continue settlement negotiations, or be remanded or  
16 transferred.

17          5.       This case was transferred to this Court on August 11, 2017 because at the time it was not  
18 close to settling. Recently, the Parties have begun settlement discussions and are scheduling a global  
19 mediation as to all of Plaintiff’s counsel’s IVC filter cases in June 2021. The Parties believe that a stay  
20 is necessary to conserve their resources and attention so that they may attempt to resolve this case and  
21 those of the other plaintiffs represented by Plaintiff’s counsel with cases pending before this Court.

22          6.       Accordingly, the Parties request that this Court issue an order staying discovery and  
23 pretrial deadlines until **June 30, 2021** to allow the Parties time to continue their settlement discussions  
24 and attend mediation in June if still necessary. This will further facilitate settlement discussions, prevent  
25 unnecessary expenditures by the Parties, and conserve judicial resources as well as place this case on a  
26 similar “track” as the MDL cases Judge Campbell determined should continue settlement dialogue.

27          7.       A district court has broad discretion over pretrial discovery rulings. *Crawford-El v.*  
28 *Britton*, 523 U.S. 574, 598 (1998); *accord, Republic of Ecuador v. Hinchee*, 741 F.3d 1185, 1188-89

(11<sup>th</sup> Cir. 2013); *Thermal Design, Inc. v. Am. Soc’y of Heating, Refrigerating & Air-Conditioning Engineers, Inc.*, 755 F.3d 832, 837 (7<sup>th</sup> Cir. 2014); *see also*, *Cook v. Kartridg Pak Co.*, 840 F.2d 602, 604 (8<sup>th</sup> Cir. 1988) (“A district court must be free to use and control pretrial procedure in furtherance of the orderly administration of justice.”).

8. Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the scope of discovery or control its sequence. *Britton*, 523 U.S. at 598. Although settlement negotiations do not automatically excuse a party from its discovery obligations, the parties can seek a stay prior to the cutoff date. *Sofo v. Pan-American Life Ins. Co.*, 13 F.3d 239, 242 (7<sup>th</sup> Cir. 1994); *see also*, *Wichita Falls Office Assocs. V. Banc One Corp.*, 978 F.2d 915, 918 (5<sup>th</sup> Cir. 1993) (finding that a “trial judge’s decision to curtail discovery is granted great deference,” and noting that the discovery had been pushed back a number of times because of pending settlement negotiations).

9. Facilitating the efforts of parties to resolve their disputes weighs in favor of granting a stay. In *Coker v. Dowd*, 2:13-cv-0994-JCM-NJK, 2013 U.S. Dist. LEXIS 201845, at \*2-3 (D. Nev. July 8, 2013), the parties requested a 60-day stay to facilitate ongoing settlement negotiations and permit them to mediate global settlement. The Court granted the stay, finding the parties would be prejudiced if required to move forward with discovery at that time and a stay would potentially prevent an unnecessary complication in the case. *Id.* at \*3. Similarly, the Parties in the present case are engaged in ongoing comprehensive settlement negotiations with Plaintiff and the other plaintiffs represented by Plaintiff’s counsel and plan to mediate these cases in June 2021.

10. The Parties agree that the relief sought herein is necessary to handle the case in the most economical fashion yet allow sufficient time to schedule and complete discovery if necessary, consistent with the scheduling obligations of counsel. The relief sought in this stipulation is not being requested for delay, but so that justice may be done.

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1       **WHEREFORE**, Plaintiff and Defendants respectfully request the Court's approval of this  
2 stipulation to stay discovery and all pretrial deadlines until **June 30, 2021** to allow the Parties to conduct  
3 ongoing settlement negotiations and mediation.

4       **IT IS SO STIPULATED.**

5       Dated this 22<sup>nd</sup> day of February 2021.

6       WETHERALL GROUP, LTD.

GREENBERG TRAURIG, LLP

7       By: /s/ **Peter C. Wetherall**

By: /s/ **Eric W. Swanis**

8       PETER C. WETHERALL, ESQ.  
9       Nevada Bar No. 4414  
10       9345 W. Sunset Road, Suite 100  
11       Las Vegas, Nevada 89148  
12       Email: [pwetherall@wetherallgroup.com](mailto:pwetherall@wetherallgroup.com)

ERIC W. SWANIS, ESQ.  
Nevada Bar No. 6840  
10845 Griffith Peak Drive, Ste. 600  
Las Vegas, Nevada 89135  
Email: [swanise@gtlaw.com](mailto:swanise@gtlaw.com)

11       *Counsel for Plaintiff*

CHRISTOPHER J. NEUMANN, ESQ.\*  
CASEY SHPALL, ESQ.\*  
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GREENBERG TRAURIG, LLP  
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Denver, Colorado 80202  
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[shpallc@gtlaw.com](mailto:shpallc@gtlaw.com)  
[tangr@gtlaw.com](mailto:tangr@gtlaw.com)

*Counsel for Defendants*

19       **IT IS SO ORDERED.**

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22       KENT J. DAWSON

United States District Judge

24       Dated this 19<sup>th</sup> day of March 2021.